

**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**DATE:** 8/24/2015

**U. S. DISTRICT JUDGE**

**COURT REPORTER:** Jan Mason

**Amos L. Mazzant**

**COURTROOM DEPUTY:** Debbie McCord

FMS VS. TRAXXAS

CAUSE NO: **4:14CV543**

ATTORNEY FOR PLAINTIFF	ATTORNEY FOR DEFENDANTS
John Grimm, Charlie Kimmett, Walter Anderson, Susannah Norvell, Billy Hupp (Legal Assistant), Lisa Joiner, Mark Abernathy	Brian Wick, Darla Gabbittas, Sean Lemoine, Brian Zollinger, Jason Bloome

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

TIME:	MINUTES: Jury Selection and Trial
	Day 5 - August 28, 2015
9:01 am	Court in session, jury seated.
	Direct of Mr. Blum continues.
9:15 am	Side bar.
9:17 am	Direct examination continues.
9:18 am	Cross examination by Mr. Anderson.
9:33 am	Redirect.
9:35 am	Court asks a question of the witness.
9:37 am	Jury passes questions to the Court.
9:38 am	Sidebar to review questions.

<b>TIME:</b>	<b>MINUTES:     Jury Selection and Trial</b>
9:39 am	Court asks jury questions.
9:47 am	Follow up questions of Mr. Lamoine.
9:47 am	Witness steps down, excused.
9:48 am	Defense witness Kent Poteet, sworn in. Direct by Mr. Lamoine.
10:32 am	Court and jury in recess for morning break.
10:50 am	Court in session, jury seated. Direct continues.
11:06 am	Record sealed.
11:08 am	Record unsealed.
11:59 am	Court and jury in recess.
1:18 pm	Court in session and jury seated. Direct continues.`
1:25 pm	Cross examination by Mr. Kimmett.
1:39 pm	Record sealed.
1:44 on	Record unsealed.
3:10 pm	Court and jury in recess for break.
3:27 pm	Court in session. Redirect.
3:49 pm	Recross.
3:55 pm	Jury questions.
3:58 pm	Court read jury questions to the witness.
4:09 PM	Follow up by Mr. Lemoine.
4:15 PM	Witness steps down.
	Defense witness: Milo Mattorano, sworn in. Direct by Mr. Wick.
4:55 pm	Jury is dismissed for the day, to return on Monday.
	Housekeeping issues. Counsel to come back at 8:30 a.m. on Monday.
	Parties want one hour each for closing argument. Court reminded Plaintiff to use one half of the closing.
5:02 pm	Court is in recess.
	Day 6 - August 31, 2015
8:32 am	Court in session. Charge conference.

<b>TIME:</b>	<b>MINUTES:    Jury Selection and Trial</b>
8:33 am	Mr. Wick addressed the Court.
8:34 am	Mr. Anderson responded.
8:36 am	Court issued ruling on the addition requested.
	Mr. Wick then addressed Defense issues with instructions.
	Court issued rulings.
8:51 am	Court will provide updated version with changes.
8:52 am	Mr. Kimmett addresses the Court regarding motion in limine issues.
	Court in recess.
9:00 am	Court in session and jury seated.
9:01 am	Direct of Mr. Mattorano continues.
9:41 am	Cross examination by Mr. Kimmett.
10:45 am	Court and jury on break.
11:04 am	Court back in session.
11:11 am	Redirect.
11:22 am	Recross.
11:32 am	Jury passes questions to Court.
11:34 am	Court asks juror questions of witness.
11:37 am	Mr. Kimmett follow up questions.
11:43 am	Mr. Wick follow up questions.
11:44 am	Court follow up questions.
	Mr. Wick follow up question.
11:46 am	Witness is fully excused.
11:46 am	Defense witness: Mike Jenkins, sworn in. Direct by Mr. Lemoine.
11:59 am	Jury dismissed for lunch.
12:00 pm	Court addresses timing issues. Court then advised of new phrase which will be added into the charge.
12:03 pm	In recess until 1:15 pm.
1:19 pm	Court in session and jury seated.

<b>TIME:</b>	<b>MINUTES:    Jury Selection and Trial</b>
	Direct of witness continues.
2:09 pm	Cross examination by Mr. Kimmett.
2:57 pm	Redirect and recross.
3:05 pm	Court questions witness.
3:12 pm	Court presents juror questions to witness.
3:17 pm	Mr. Lemoine follow up questions.
3:22 pm	Mr. Kimmett follow up questions. Mr. Lemoine again.
3:23 pm	Defense rests.
3:24 pm	Jury is in recess on break.
	Plaintiff closes.
3:25 pm	Mr. Anderson presents Plaintiff motion for judgment as a matter of law.
3:31 pm	Mr. Lemoine response.
3:36 pm	Reply of Mr. Anderson.
3:40 pm	Court will deny both motions.
	Court in recess for break.
3:57 pm	Court back in session, jury released until Noon tomorrow.
4:03 pm	Court in recess until Noon tomorrow.
	Day 7 - September 1, 2015
12:34 pm	Court in session, jury seated.
	Mr. Kimmett closes for Plaintiff.
	Mr. Lemoine closes for Defendant.
2:22 pm	Mr. Kimmett rebuttal closing.
2:38 pm	Court reads instructions.
2:58 pm	Case goes to jury.
	Issue of exhibits - Ex. 167 is in. Parties agreed the exhibit should go in.
3:00 pm	Court is in recess.

BY: Debbie McCord  
Courtroom Deputy Clerk

CASE NO.                      DATE:  
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